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APPENDIX "A"

DEFENDANT'S MOTION TO EXCLUDE

MR. MATHEWS: The State rests.

MR. KOMINOS: Judge, we've got a motion that we'd like to make before the Court.

THE COURT: Okay.

MR. KOMINOS: Motion to exclude.

THE COURT: You want the Jury out?

MR. KOMINOS: Yes, sir.

THE COURT: Y'all can take another - about a five minute recess.

(At which time the Jury went out of the courtroom.)

MR. KOMINOS: Judge, we move to exclude the evidence and the grounds thereof that the State and the following is separate. The State has failed to make out a prima facie case. The State has failed to prove each and every element of the crime charged. The State has failed to prove each and every element of the indictment. There's been a variance between the indictment and the proof offered by the State. The State has failed to carry the burden of proof.

THE COURT: Overruled.

APPENDIX "B"

JUDGMENT ENTRY

This the 1st day of June, 1981, came Edward W. Boswell, District Attorney, who prosecutes for the State of Alabama, and also came the defendant in his own proper person and by attorney, George Trawick, and the defendant having been duly arraigned upon the indictment in this cause, and having entered his plea of not guilty, there came a jury of good and lawful persons, to-wit: Willis B. Anderson and eleven others, who being duly empanelled and sworn according to Law, before whom the trial of this case was entered upon and continued from time to time, said defendant being in open Court at each and every stage and during all the proceedings in this cause. This the 1st day of June, 1981, said jurors upon their oaths do say, "We the Jury, find the defendant guilty of Attempt Burglary Second Degree."

It is therefore considered by the Court, and it is the judgment of the Court that said defendant is adjudged guilty of Attempt Burglary Second Degree as charged in the indictment, in accordance with the verdict of the jury in this cause.

This the 1st day of June, 1981, it is ordered by the Court that imposition of sentence be and the same is suspended pending a pre-sentence investigation report on the 17th day of August, 1981. It is further ordered by the Court that bond in this case be and the same is hereby fixed in the amount of $1,000.00 conditioned as required by Law.

WITNESS MY HAND AND SEAL, this the 1st day of June, 1981.

/s/ Louise Childs

Louise Childs, Circuit Clerk
Dale County, Alabama

APPENDIX "C"

JURY TRIAL (GUILTY)

On the 30th day of April, 1981, comes the State of Alabama by its District Attorney, Honorable Edward W. Boswell, also comes the

JURY TRIAL (GUILTY) (Continued)

defendant, Jack Hinson, in his own proper person and with his attorney, Honorable George Trawick, and being duly arraigned in open Court upon an Indictment on a charge of Attempt Burglary Second Degree, for his plea thereto says he is not guilty. Issue is joined.

Thereupon, on the 1st day of June, 1981, comes a jury of good and lawful persons, to-wit: Willis B. Anderson, and eleven others, who, being duly empanelled, sworn and charged by the Court according to law, before whom the trial of this cause was entered upon and continued from time to time said defendant, Jack Hinson, and his attorney, Honorable George Trawick, being in open Court at each and every stage and during all the proceedings in this cause, now on this the 1st day of June, 1981, said jurors upon their oaths do say: "We the jury, find the Defendant guilty, Willis B. Anderson, Foreman."

The defendant, Jack Hinson, and his attorney, Honorable Bill Kominos, being in open Court, and the defendant, Jack Hinson, being asked by the Court if he has anything to say why the judgment and sentence of the law should not be pronounced upon him, says nothing in bar or preclusion of sentence. The Court adjudges the defendant guilty of attempt burglary second degree in accordance with the verdict of the jury. It is, therefore, considered by the Court and it is the judgment and sentence of the Court that the defendant, Jack Hinson, be imprisoned in the Penitentiary of the State of Alabama for a period of 6 years as punishment for his crime.

Thereupon, in open Court on this day, notice of appeal is entered and appeal bond is set at $15,000.00.

WITNESS MY HAND AND SEAL, this the 17th day of August, 1981.

/s/ Louise Childs

Louise Childs, Circuit Clerk

APPENDIX "D"

MOTION FOR A NEW TRIAL

Comes now the defendant in the above styled case by and through his attorney of record and respectfully requests this Court order a new trial in the above styled case and as grounds thereof states as follows:

1. That the verdict of the jury was contrary to the evidence in the case.

2. That the verdict of the jury was contrary to the law in the case.

3. That the verdict of the jury was contrary to the facts and law in the case.

WHEREFORE, PREMISE CONSIDERED, the defendant prays for an appropriate order vacating the verdict and sentence in the case and setting it down for a trial denovo.

Respectfully submitted this 18th day of August, 1981.

/s/ Bill Kominos

BILL KOMINOS
Attorney for Defendant
P. O. Box 47
Ariton, Alabama 36311

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the above motion to Honorable Ed Boswell, District Attorney for Dale County on this 18th day of August, 1981.

/s/ Bill Kominos

BILL KOMINOS

APPENDIX "E"

ORDER ON MOTION FOR NEW TRIAL

This Motion coming on to be heard was submitted to the Court for ruling and in the opinion of the Court the Motion is without merit and due to oe denied, it is:

THEREFORE, ORDERED and ADJUDGED that the Defendant's Motion for a New Trial be and it is hereby denied.

DONE this the 7th day of October, 1981.

/s/ William H. Robertson

WILLIAM H. ROBERTSON
Judge

APPENDIX "F-1"

ORDER OF ALABAMA COURT OF CRIMINAL APPEALS AFFIRMING TRIAL COURT WITHOUT OPINION

APRIL 20, 1982

THE STATE OF ALABAMA - JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

4 Div. 963

Jack Hinson

v.

State

Appeal from Dale Circuit Court

Number CC-81-187

Come the parties by attorneys, and the record and matters therein assigned for errors being submitted on briefs and duly examined and understood by the Court, it is considered that in the record and proceedings of the Circuit Court there is no error. It is therefore considered that the judgment of the Circuit Court be in all things affirmed.

APPENDIX "F-2"

NOTICE OF AFFIRMANCE WITHOUT OPINION BY ALABAMA COURT OF CRIMINAL APPEALS

APRIL 20, 1982

THE STATE OF ALABAMA - JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

4 Div. 963

Jack Hinson

vs.

State

Appeal from Dale Circuit Court
Number CC-81-187

Dear Sir: This is to advise you that on April 20, 1982, the Court of Criminal Appeals announced the decision of affirmance, no opinion in the above stated cause.

Yours truly,
MOLLIE JORDAN, CLERK

APPENDIX "G-1"

ORDER OF ALABAMA COURT OF CRIMINAL APPEALS DENYING APPLICATION FOR REHEARING

MAY 18, 1982

THE STATE OF ALABAMA - JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

4 Div. 963

Jack Hinson

vs.

State

Appeal from Dale Circuit Court
Number CC-81-187

ON REHEARING

IT IS ORDERED that the application for rehearing be and the same is hereby overruled.

APPENDIX "G-2"

NOTICE OF ORDER OF ALABAMA COURT OF CRIMINAL APPEALS DENYING APPLICATION FOR REHEARING

MAY 18, 1982

THE STATE OF ALABAMA - JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

4 Div. 963

Jack Hinson

vs.

State

Appeal from Dale Circuit Court
Number CC-81-187

Dear Sir: This is to advise you that on May 18, 1982, the Court of Criminal Appeals announced the decision of application for rehearing overruled, no opinion in the above stated cause.

Yours truly,
MOLLIE JORDAN, CLERK

APPENDIX "H-1"

ORDER OF ALABAMA SUPREME COURT DENYING PETITION FOR WRIT OF CERTIORARI

81-702

Ex Parte: Jack L. Hinson
PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS
(Re: Jack L. Hinson vs. State of Alabama)

The Petition for Writ of Certiorari to the Court of Criminal Appeals being duly submitted to this Court, IT IS CONSIDERED AND ORDERED that the petition be denied. NO COSTS TAXED.

ALMON, J., TORBERT, C.J., FAULKNER, EMBRY AND ADAMS, JJ., CONCUR.

APPENDIX "H-2"

NOTICE OF DENIAL OF PETITION FOR WRIT OF CERTIORARI BY ALABAMA SUPREME COURT

Re: 81-702

Ex Parte: Jack L. Hinson
PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS.
(Re: Jack L. Hinson vs. State of Alabama)

You are hereby notified that the following indicated action was taken in the above cause by the Supreme Court today:

Petition for Writ of Certiorari denied. No opinion.

ALMON, J., TORBERT, C.J., FAULKNER, EMBRY AND ADAMS, J.J., CONCUR.

/s/ Dorothy F. Norwood

DOROTHY F. NORWOOD
Acting Clerk, Supreme Court of Alabama

APPENDIX "I"

ORDER OF ALABAMA SUPREME COURT DENYING APPLICATION FOR REHEARING

THE STATE OF ALABAMA - JUDICIAL DEPARTMENT

IN THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1982

81-702

Ex Parte: Jack L. Hinson
PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS.
(Re: Jack L. Hinson vs. State of Alabama) (4th Div. 963)

APPENDIX "I" (Continued)

ORDER

On July 15, 1982, an application for rehearing was received in the above cause from a decision of this Court on July 2, 1982, denyng the petition for writ of certiorari without opinion. Rule 39(j), Alabama Rules of Appellate Procedure, provides that "no application for rehearing shall be received in the supreme court if the petition for certiorari is denied."

IT IS, THEREFORE, ORDERED that the application for rehearing received in the above cause on July 15, 1982, be, and the same is hereby, stricken.

TORBERT, C.J., FAULKNER, ALMON, EMBRY AND ADAMS, J.J., CONCUR.